TEXAS DEPARTMENT OF INSURANCE
**Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)**
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# MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

## *GENERAL INFORMATION*

**Requestor Name**
Jose G. Trevino, M.D.

**Respondent Name**
American Zurich Insurance Company

**MFDR Tracking Number**
M4-17-1121-01

**Carrier's Austin Representative**
Box Number 19

**MFDR Date Received**
December 27, 2016

## *REQUESTOR'S POSITION SUMMARY*

**Requestor's Position Summary:** "The Carrier initially denied reimbursement indicating an issue with documentation, however after submission of a Request for Reconsideration, the Carrier returned a second Explanation of Benefits denying reimbursement for lack of Pre-Authorization … Pre-Authorization is not required for determination of Maximum Medical Improvement and Impairment Rating."

**Amount in Dispute:** $215.00

## *RESPONDENT'S POSITION SUMMARY*

**Respondent's Position Summary:** "Please see the EOB(s) and the reduction rationale(s) stated therein … [T]he carrier asserts that it has paid according to applicable fee guidelines…"

**Response Submitted by:** Flahive, Ogden & Latson

## *SUMMARY OF FINDINGS*

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|---|---|---|---|
| August 5, 2016 | Work Status Report (99080-73) | $15.00 | $15.00 |
| August 5, 2016 | Treating Doctor Examination to Determine Maximum Medical Improvement & Impairment Rating | $200.00 | $172.99 |

## *FINDINGS AND DECISION*

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §129.5 sets out the procedures for Work Status Reports.
3. 28 Texas Administrative Code §130.1 sets out the requirements for certification of maximum medical improvement and impairment rating.
4. 28 Texas Administrative Code §133.10 sets out the requirements for a complete medical bill.

5. 28 Texas Administrative Code §133.210 sets out the requirements for medical documentation.
6. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
7. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services provided from March 1, 2008 until September 1, 2016.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 16 – Claim/service lacks information which is needed for adjudication. Additional information is supplied using remittance advice remark codes whenever appropriate.
   - M127 – Missing patient medical record for this service.
   - MA27 – Missing/incomplete/invalid entitlement number or name shown on the claim.
   - MA30 – Missing/incomplete/invalid type of bill.
   - N179 – Additional information has been requested from the member. The charges will be reconsidered upon receipt of that information.
   - 197 – Precertification/Authorization/Notification absent.
   - Comment: "NO ALLOWANCE CHANGE"

**Issues**

1. Are American Zurich Insurance Company's reasons for denial or reduction of payment supported?
2. Is Jose G. Trevino, M.D. entitled to reimbursement for the disputed services?

**Findings**

1. Jose G. Trevino, M.D. is seeking reimbursement for an examination to determine if the injured employee reached maximum medical improvement, if there is a permanent impairment, and the completion of a Work Status Form (DWC073). The Division will examine each of the denial reasons raised by American Zurich Insurance Company (Zurich).

   **16 – "Claim/service lacks information which is needed for adjudication. Additional information is supplied using remittance advice remark codes whenever appropriate."**

   Zurich provided the following remittance advice remark codes to clarify this denial:

   - M127 – "Missing patient medical record for this service": Review of the documentation submitted by Dr. Trevino includes a DWC073, a Report of Medical Evaluation (DWC069), and a narrative report for the date of service in question. The denial for this reason is not supported.
   - MA27 – "Missing/incomplete/invalid entitlement number or name shown on the claim": The CMS Claim Form 1500 (CMS 1500) indicates the rendering provider is Jose Trevino, M.D., NPI number 1235328113, License type/number/jurisdiction MDH8873TX. The form lists the billing provider as medALERT Occupational Management Inc. The Division finds this information to be valid and active as submitted. The denial for this reason is not supported.
   - MA30 – "Missing/incomplete/invalid type of bill": The Division finds that the submitted CMS 1500 meets the requirements of a valid and complete medical bill pursuant to 28 Texas Administrative Code §133.10. The denial for this reason is not supported.
   - N179 – "Additional information has been requested from the member. The charges will be reconsidered upon receipt of that information": 28 Texas Administrative Code §133.210(d) states that:

     > Any request by the insurance carrier for additional documentation to process a medical bill shall:
     > (1) be in writing;
     > (2) be specific to the bill or the bill's related episode of care;
     > (3) describe with specificity the clinical and other information to be included in the response;
     > (4) be relevant and necessary for the resolution of the bill;
     > (5) be for information that is contained in or in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider;

(6) indicate the specific reason for which the insurance carrier is requesting the information; and
(7) include a copy of the medical bill for which the insurance carrier is requesting the additional documentation.

No documentation was found to support that the carrier made an appropriate request for additional documentation with the specificity required by §133.210(d). The Division concludes that Zurich failed to meet the requirements of 28 Texas Administrative Code 133.210(d). The denial for this reason is not supported.

**197 – "PERCERTIFICATION** [sic]**/AUTHORIZATION/NOTIFICATION ABSENT."**

28 Texas Administrative Code §134.204(j)(2) states:

An HCP shall only bill and be reimbursed for an MMI/IR examination if the doctor performing the evaluation (i.e., the examining doctor) is an authorized doctor in accordance with the Act and Division rules in Chapter 130 of this title.

28 Texas Administrative Code §130.1(a)(1) provides that:

Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment.
(A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section.
(i) **the treating doctor** [emphasis added] (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor, in which case the treating doctor is not authorized);
(ii) a designated doctor; or
(iii) a required medical examination (RME) doctor selected by the insurance carrier and approved by the division to evaluate MMI and/or permanent whole body impairment after a designated doctor has performed such an evaluation.
(B) Prior to September 1, 2003 a doctor serving in one of the roles described in subsection (a)(1)(A) of this subsection is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI. On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows:
(i) a doctor whom the division has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and
(ii) **a doctor whom the division has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI** [emphasis added].

Documentation submitted by Dr. Trevino indicates that he was the treating doctor and made a determination that the injured employee had no permanent impairment. For this reason, Dr. Trevino was authorized to perform the services in question. The Division concludes that no preauthorization for medical necessity was required for this service. Zurich's denial of procedure code 99455-V3 for this reason is not supported.

The procedures for submitting a DWC073 are found in 28 Texas Administrative Code §129.5. The Division finds that preauthorization is not required for this service. Zurich's denial of procedure code 99080-73 for this reason is not supported.

2. Dr. Trevino is seeking reimbursement for an examination, performed as the treating doctor, to determine maximum medical improvement and impairment rating of the injured employee, represented by procedure code 99455-V3. 28 Texas Administrative Code §134.204(j)(2)(B), effective March 1, 2008 until September 1, 2016, states:

If the examining doctor determines MMI has been reached and there is no permanent impairment because the injury was sufficiently minor, an IR evaluation is not warranted and only the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection.

28 Texas Administrative Code §134.204(j)(3) states:

The following applies for billing and reimbursement of an MMI evaluation.
(A) An examining doctor who is the treating doctor shall bill using CPT Code 99455 with the appropriate modifier.
(i) Reimbursement shall be the applicable established patient office visit level associated with the examination.
(ii) Modifiers "V1", "V2", "V3", "V4", or "V5" shall be added to the CPT code to correspond with the last digit of the applicable office visit.

The applicable established patient office visit level associated with modifier "V3" for this examination is represented by procedure code 99213. This procedure code is reimbursed in accordance with 28 Texas Administrative Code §134.203(c), which states:

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83…
(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year…

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2016 is $56.82.

For procedure code 99213 on August 5, 2016, the relative value (RVU) for work of 1.42 multiplied by the geographic practice cost index (GPCI) for work of 1.018 is 1.44556. The practice expense (PE) RVU of 1.47 multiplied by the PE GPCI of 1.009 is 1.48323. The malpractice (MP) RVU of 0.15 multiplied by the MP GPCI of 0.772 is 0.1158. The sum of 3.04459 is multiplied by the Division conversion factor of $56.82 for a MAR of $172.99.

28 Texas Administrative Code §129.5(i) states, in relevant part:

Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be $15…
(1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section;

Therefore the MAR for procedure code 99080-73 on date of service August 5, 2016 is $15.00. The total MAR for the disputed services is $187.99. This amount is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $187.99.

## *ORDER*

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $187.99, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

| | Laurie Garnes | February 14, 2017 |
|---|---|---|
| Signature | Medical Fee Dispute Resolution Officer | Date |

## *YOUR RIGHT TO APPEAL*

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812**.